

UNITED STATES DISTRICT COURT

for the
Western District of Oklahoma

FILED

MAR 13 2019

In the Matter of the Search of
(Briefly describe the property to be searched
or identify the person by name and address)

JIMMIE J. CALDWELL

Case No. M-19- 128 -P

CAROLITA REEDER SHIN
CLERK U.S. DISTRICT COURT
BY: Carolita Reeder Shin
REPUTY

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

Jimmie J. Caldwell, black male, DOB xx-xx-1979, and Bureau of Prisons Inmate Number 17515-045

located in the Western District of Oklahoma, there is now concealed (identify the person or describe the property to be seized):

Saliva, for purpose of conducting DNA testing.

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;
☐ contraband, fruits of crime, or other items illegally possessed;
☐ property designed for use, intended for use, or used in committing a crime;
☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section
18 U.S.C. § 922(g)(1)

Offense Description
Felon in Possession

The application is based on these facts:

See attached Affidavit of Special Agent Jared Lowe, Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), which is incorporated by reference herein.

- ☒ Continued on the attached sheet.
☐ Delayed notice of _____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.



Applicant's signature

JARED LOWE, Special Agent ATF

Printed name and title

Sworn to before me and signed in my presence.

Date:

3/13/19

Judge's signature

City and state: Oklahoma City, Oklahoma

GARY M. PURCELL, United States Magistrate Judge

Printed name and title

AFFIDAVIT IN SUPPORT OF A SEARCH WARRANT

I, Jared Lowe, with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Oklahoma City, being duly sworn, depose and state under oath as follows:

1. I am an investigative or law enforcement officer of the United States and am empowered by law to conduct investigations of and to make arrests for offenses set forth in United States Code, Titles 18 and 21.

2. I am a Special Agent with ATF located in Oklahoma City, Oklahoma. I have been employed with ATF since January 11, 2015. As part of my duties as a Special Agent with ATF, I investigate criminal violations related to firearms trafficking and the illegal possession of firearms by prohibited persons. I have been involved in several investigations involving illegal firearms possession, as well as domestic and international firearms trafficking. I have received specialized training, and have developed knowledge from more experienced agents in investigating the illicit purchase, transportation, sale, possession, and trafficking of firearms in violation of Federal Law. Prior to working for ATF, I was a certified police officer in the State of Oklahoma for approximately 10 years. During my time as a certified police officer, I held the positions of Patrolman, School Resource Officer, Detective, and Corporal. From 2009 until 2014, I was assigned to the Tulsa County Violent Crimes/Narcotics Task Force, where I investigated street level narcotics manufacture and distribution, as well as the criminal use and possession of firearms in relation to narcotics and violent crime offenses.

3. I make this affidavit in support of the issuance of a search warrant to search the person of **Jimmie J. CALDWELL** (BM; DOB: XX-XX-1979), to seize a deoxyribonucleic acid (DNA) sample from **CALDWELL** as evidence of a crime. This DNA sample is necessary for comparison to unknown forensic evidence collected from a black Smith and Wesson 9mm handgun bearing serial number DTC6389 and WIN 9mm LUGER ammunition. As further outlined below, there is probable cause to believe that **CALDWELL** possessed this firearm on September 8, 2017.

4. Based on my training and experience, I know that it is possible and likely to transfer DNA onto most items that a person touches or otherwise comes into contact with, including firearms and ammunition. The retrieval of a DNA sample from **CALDWELL** will allow forensic comparison against any DNA recovered from the above-mentioned firearms and ammunition, which were underneath the driver's side floor mat where **CALDWELL** was sitting.

5. Through my training and experience, I know DNA can be found in both blood and saliva of a human being. I also know DNA can be collected in a relatively unobtrusive manner by utilizing a buccal swab to obtain a saliva sample from the inside of a subject's mouth. If authorized by court order, law enforcement intends to collect a buccal swab from **CALDWELL** to obtain a DNA sample for comparison purposes. The intended manner of collecting **CALDWELL's** DNA on a buccal swab will be to use a Q-tip to swab the inside cheek of **CALDWELL's** mouth.

6. This Affidavit contains information necessary to support probable cause for this application for a search warrant. It is not intended to include every fact or matter observed by me or known by law enforcement. The information provided is based on my personal knowledge and observation during the course of this investigation, but is primarily based on information conveyed to me by other law enforcement officials, in particular Michael Delaney, a Detective with the Kansas City Missouri Police Department, and his review of records, documents, and other physical evidence obtained during the investigation.

7. Det. Michael Delaney is currently assigned as a Detective with the Kansas City Missouri Police Department-ATF Illegal Firearms Squad and has been employed with the department for the past 16 years. During his tenure with the Street Crimes Unit Tactical Enforcement Squad, he has been involved in numerous investigations of various individuals in the importation and distribution of controlled substances, murders, assaults, robberies, and investigations dealing with firearms possession within the Kansas City metropolitan area.

BACKGROUND OF INVESTIGATION

8. I know from my training and experience that pursuant to 18 U.S.C. § 922(g)(1), it is unlawful for any person who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

9. On September 8, 2017, at approximately 5:20 a.m., uniformed personnel of the Kansas City Missouri Police Department were on patrol in the area of 39th St. and Garfield Ave. in Kansas City, Jackson County, Missouri. Officers observed a black Dodge Ram truck with Missouri license plate number CM6-J6G leaving the gas station at 39th St. and Garfield Ave. Officers conducted a computer check of the license and it came back registered to a Chevrolet. Officers subsequently conducted a car check at 39th St. and Michigan Ave. Officers made contact with the sole occupant and driver of the truck. The driver was identified as **CALDWELL**. Officers conducted a computer check of **CALDWELL** and learned he was on federal supervised release on a conviction of three counts for distribution of 5 grams of more of cocaine.

10. Officers asked **CALDWELL** for consent to search his truck for any weapons. **CALDWELL** consented to the search and exited the truck. Officers located a black Smith and Wesson 9mm handgun bearing serial number DTC6389. The firearm contained one round of 9mm ammunition in the chamber and 12 rounds of 9mm ammunition in the magazine. The rounds were all head stamped with "WIN 9mm LUGER." Officers instructed **CALDWELL** to turn around and place his hands behind his back, to which he complied. Officers got one handcuff on **CALDWELL**, but then **CALDWELL** pulled away and fled on foot. Officers lost sight of **CALDWELL** during a short foot pursuit and were unable to locate him at that time. Officers recovered the firearm, took it to the Central Patrol Division property room, and preserved it for DNA evidence by handling it with latex gloves.

11. A criminal records check revealed two cases of conviction for **CALDWELL**:

- a. In 2001, in the Circuit Court of Jackson County, Case No. 16CR00002547-01, **CALDWELL** was convicted of the following felonies: one (1) count of possession of a controlled substance, one (1) count of trafficking in drugs, and four (4) counts of distribution of drugs.
- b. In Case No. 04-00326-01-CR-W-ODS, from the United States District Court for the Western District of Missouri, **CALDWELL** was convicted of three counts of distributing five grams or more of cocaine in violation of 21 U.S.C. 841(a)(1) and (b)(1)(B).
- c. All of these crimes are punishable by more than one year in prison.

12. **CALDWELL** is currently located at the El Reno Federal Correctional Institution, 4205 Highway 66 West, El Reno, Oklahoma, under prisoner number 17515-045, in connection with the revocation of his supervised release from Case No. 04-00326-01-CR-W-ODS.

13. Based on these facts, I respectfully submit that there is probable cause to believe that **Jimmie J. CALDWELL** committed the offense of Felon in Possession of a Firearm, in violation of 18 U.S.C. § 922(g)(1), and that a search of **CALDWELL**'s person to obtain a DNA sample will yield evidence further linking him to this September 8, 2017 possession of a firearm. I, therefore, respectfully request that a search warrant be issued authorizing the search of the person of **Jimmie J. CALDWELL** to obtain two buccal swab DNA samples from the mouth of **CALDWELL**. Agents/officers will obtain cotton swabs

of the defendant's saliva via buccal swabs in the normally accepted forensic manner. The DNA samples collected from **CALDWELL** will be compared to the swabs from the firearm that was recovered.

FURTHER AFFIANT SAYETH NOT.



JARED LOWE
Special Agent, ATF

SUBSCRIBED AND SWORN to before me on this 13th day of March 2019.



GARY M. PURCELL
United States Magistrate Judge